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PACIFIC TELESIS
Group Washington

March 25, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Re: *Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket 95-185*

On behalf of Pacific Bell, Pacific Bell Mobile Services and Nevada Bell, please find enclosed an original and six copies of their *"Reply comments by Pacific Bell, Pacific Bell Mobile Services, and Nevada Bell"* in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

Jay Bennett

Enclosures

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Interconnection Between Local Exchange Carriers) CC Docket No. 95-185
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REPLY COMMENTS BY PACIFIC BELL, PACIFIC BELL MOBILE SERVICES, AND NEVADA BELL

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Date: March 25, 1996

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REPLY COMMENTS BY PACIFIC BELL, PACIFIC BELL MOBILE SERVICES, AND NEVADA BELL

I. SUMMARY AND GENERAL COMMENTS -- MANDATORY BILL AND KEEP WOULD BE BAD LAW AND BAD POLICY

A. SUMMARY OF REPLY COMMENTS

This proceeding has proven the obvious. If you propose that certain parties receive something extremely valuable for free and ask them what they think of the idea, almost all of them[1] will come up with a lot of reasons to support it. In fact, not surprisingly, tempted by the chance for free service, CMRS providers have changed positions that they took during the last two years in which they said that the current

[1] The Rural Cellular Association (p. 1), however, opposes Mandatory Bill and Keep because it ignores "proven cost recovery principles" and "will also distort the economic incentives to improve service and deploy network upgrades." In addition, The Rural Cellular Corporation (pp. 5-6) is increasingly concerned about the precedential impact of Bill and Keep. LDDS WorldCom (p. 11) "is very troubled by the bill and keep approach."

interconnection process is satisfactory and should be extended to all CMRS providers.[2] For instance, in CC Docket No. 94-54, CTIA said that "the process generally produces fair and nondiscriminatory interconnection arrangements."[3] Now CTIA complains that the LECs' "market power is a source of unequal bargaining power in interconnection negotiations" which "[w]ithout Commission intervention...may result in an unreasonable and/or discriminatory interconnection rate [with] no basis in cost."[4] They have changed their opinions not only to support the Commission's proposal that they receive free termination of their traffic via Bill and Keep, but also to urge the Commission to extend the give-away far beyond local end office termination to include free access to the LECs' tandem networks and sharing of the LECs' entrance facilities.[5]

These CMRS providers have gone so far as to argue that we, and other LECs, are recovering our interconnection costs from charges to our end users. Actually, we removed many of those charges because CMRS providers requested it in order to make their services more attractive and because they agreed to compensate us for the shortfall. Now, they urge the Commission to immediately remove, via Bill and Keep, all charges that they pay to us without even giving us time to make the difficult changes needed to reinstate charges to our end users.[6] CMRS providers would obtain a windfall at the expense of the LECs and the public interest.

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[2] See Part II - A-1 below.

[3] Comments of CTIA, p. 18, September 12, 1994, CC Docket No. 94-54.

[4] CTIA, pp. 9-10.

[5] See Part II - A-3(A) below.

[6] See Comments By Pacific Bell, Pacific Bell Mobile Service, and Nevada Bell, pp. 18-19.

These CMRS providers have not shown that there is any urgent need for change in the LEC-to-CMRS interconnection process. The record shows that this process has been working well and can be revised in an orderly manner via negotiations between interconnecting parties in order to conform to the Mutual Compensation requirements of the Telecommunications Act of 1996 (the "new Act").[7] The Commission should either close this proceeding because it has been mooted by the new Act, or transform it into a broader proceeding to implement the interconnection requirements of the new Act.

CMRS providers assert that this proceeding, including the Bill and Keep proposal, is not mooted. They assert that CMRS providers are not included in the interconnection provisions of the new Act[8] and that, in any event, mandatory Bill and Keep is allowed by the new Act.[9] Their interpretations ignore the plain words of the new law. Actually, this proceeding, in its current narrow form, has been mooted because the new Act sets forth the requirements for interconnection arrangements between each "telecommunication carrier," which includes CMRS providers and LECs.[10] The new Act does not allow the Commission to remove LEC-to-CMRS interconnection arrangements from the negotiation process under the auspices of the states.[11] The Budget Act preempted state regulation of both CMRS providers' entry and rates charged to their subscribers, but not of rates between LECs and CMRS

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[7] See ex parte letters dated February 26, 1996 and March 13, 1996 from Michael K. Kellogg, Counsel for Bell Atlantic and Pacific Telesis Group, to William F. Caton in CC Docket No. 95-185, concerning the effects of the new Act on the issues in this proceeding.

[8] See, e.g., CTIA, pp. 59 & 61.

[9] See, e.g., Comcast, pp. ii & 11; CTIA, pp. 48-49.

[10] 47 U.S.C. §§251(a), 153(b)(49)

[11] 47 U.S.C. § 152.

providers for interconnection.[12] Interconnection arrangements for all telecommunications carriers are to be based on Reciprocal Compensation, with Bill and Keep allowed only in arrangements where there are offsetting obligations and parties voluntarily "waive" their rights to mutual cost recovery.[13] Following this framework will help ensure that the Commission establishes guidelines and regulations "that support competitive markets as opposed to favoring individual competitors."[14]

Nonetheless, one group of individual competitors in this proceeding, the CMRS providers, urge the Commission to treat them more favorably than others. Although the LECs terminate over four times more traffic for the two-way CMRS providers than CMRS providers terminate for the LECs, the CMRS providers request that termination be free. They go so far in their request, however, that they make it obvious that Bill and Keep does not represent sound economic thinking, but rather the desire for a free ride. For instance, CTIA admits that there are costs of termination, but relies on the Commission's discussion of Dr. Gerald Brock's analysis which claims that the average costs are low.[15] CTIA, however, then leaps to a recommendation that Bill and Keep should be extended to any point of interconnection, allowing CMRS providers to have free access to the LECs' whole networks.[16] Neither Dr. Brock nor the Commission

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[12] 47 U.S.C. § 332(c).

[13] 47 U.S.C. § 152(d).

[14] Chairman Hundt recently set this forth as one of the challenges of implementing the new Act. "Implementing The Telecommunications Law Of 1996: The Real Work Begins," p. 3, February 21, 1996, Newsweek Telecommunications Forum, Washington, D.C.

[15] CTIA, p. 4. The Commission set forth, but only tentatively accepted, Dr. Brock's incorrect theory that costs are low.

[16] Id. at 5.

suggested that the costs of such an extensive Bill and Keep arrangement might be low, and they would not be. Yet, low costs are the only possible rationale for Bill and Keep where, as with LEC-to-CMRS arrangements, there is a significant traffic imbalance.[17] Thus, CTIA and others who attempt to overextend Bill and Keep actually destroy its economic facade and expose their own goal to obtain special treatment.

The Arbitrage Threat Is Real and Substantial

That the Bill and Keep proposal would provide special treatment is made obvious by comparing it to the Commission's access charge structure. Bill and Keep would price at zero the same network functions that must be paid for by IXCs seeking access to LECs' networks. Sprint recognizes this discrimination and explains the arbitrage threat that it imposes:

> The Commission should recognize that imposition of a bill and keep arrangement could raise the possibility that a long distance carrier would attempt to feed long distance traffic to a PCS provider in order to circumvent paying access charges to the LEC on the terminating end of the call. Sprint views such an arrangement as an abuse of the bill and keep arrangement and as inconsistent with the rationale for prescribing that arrangement for this interim period. Accordingly, the Commission should make clear that the bill and keep arrangement applies only to traffic originating within the PCS provider's serving area and terminating in the LEC's local exchange network, and vice-versa.[18]

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[17] See Part II - A-1 below.
[18] Sprint, pp. 13-14.

Sprint's suggestion that the Commission dictate and limit where Bill and Keep would apply not only reaffirms the discriminatory nature of Bill and Keep, but would do no good. Applying Bill and Keep as Sprint proposes "only to traffic originating within the PCS provider's serving area and terminating in the LEC's local exchange network," would not limit it at all. Many PCS providers' serving areas will be huge, and many PCS providers are also IXCs. For instance, "Sprint Corp., MCI Communications Corp. and AT&T have big plans for national wireless services."[19] Moreover, trying to prevent the arbitrage in other ways would be an enforcement nightmare. Even if limitations could be enforced, they would create the type of unreasonable discrimination that the Commission has spent years trying to eliminate.

B. THE COMMISSION NEEDS TO REFORM, NOT UNDERMINE, ITS ACCESS STRUCTURE

The Commission adopted its access charge plan for the setting of terms and conditions of access "to remedy discrimination and preferences that violate Section 202(a) of the Communications Act."[20] In this regard, the Commission "concluded that it is necessary and desirable to establish access charges in lieu of

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[19] "Wireless Is At Front Line In Telecom Market Battle," Investors Business Daily, February 21, 1996, p. A8.

[20] MTS and WATS Market Structure, CC Docket No. 78-72, Phase I, Third Report and Order, 93 FCC 2d 241, 265 (1983) ("Access Order"), modified on reconsideration, 97 FCC 2d 834 (1984) ("Access Reconsideration Order"), aff'd in principal part and remanded in part, National Ass'n of Regulatory Util. Comm'rs v. FCC, 737 F.2d 1095 (D.C. Cir. 1984), cert. denied, 469 U.S. 1227 (1985), 110 FCC 2d 1222 (1985), further reconsideration denied, 102 FCC 2d 849 (1985). See also Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I.

existing access compensation arrangements in order to eliminate existing access compensation disparities that might arise if a variety of access compensation mechanisms were used in the future."[21] At that time, AT&T paid full charges for exchange access; other common carriers paid discounted Exchange Network For Interstate Access ("ENFIA") rates; private line users did not bear any of the costs attributable to their interstate use of the exchange.[22] The Commission found that these unjustified disparities in charges for access constituted unreasonable discrimination.[23]

Bill and Keep is the type of disparity in charges that the Commission sought to end by establishing its access charge plan, and Bill and Keep would distort the Commission's efforts to reform that plan. On the one hand, Bill and Keep for LEC-to-CMRS interconnection would give unjustifiably preferential treatment to a select group in violation of Section 202(a) of the Communications Act.[24] On the other hand, extending free termination of traffic to IXCs would undermine, rather then reform, the

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[21] Access Order, p. 255. In addition to "eliminating discrimination or preferences," the Commission's objectives for the access charge plan were "promoting efficient network utilization generally, and discouraging uneconomic bypass" and maintaining universal service. Id. at 266.

[22] Id.

[23] Id. at 258.

[24] Applying use and user restrictions also would be contrary to the Commission's policies in other proceedings. For instance, the Commission has ordered that Feature Group B Access Service cannot be offered solely to IXCs but must be made available to end users as well. Petition of First Data Resources, Regarding The Availability of Feature Group B Access Service to End Users, Memorandum Opinion and Order, released May 28, 1986. In addition, the Commission has prohibited customer or use restrictions in federal comparably efficient interconnection or Open Network Architecture tariffs because such restrictions "generally tend to impair competition and reduce consumer welfare." Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry), CC Docket No. 85-229, Memorandum Opinion and Order on Reconsideration, released May 22, 1987, para. 111.

access structure. Attempts to limit its extension, however, would fail. IXC arbitragers would greatly distort the access structure at the same time that the Commission would be trying to reform it.

Distortions would arise partly because of the traditional similarity between 1) LECs' access charges to IXCs and 2) LECs' interconnection charges to CMRS providers. Bill and Keep would radically change LEC-to-CMRS interconnection, while leaving access as an unattractive alternative. Concerning the relationship of access and interconnection, AirTouch states: "Interestingly, while LECs may argue that the direction of traffic flow is relevant to billing, interexchange carriers pay LECs for both terminating and originating access. Payments do not follow the traffic flow."[25] There are good reasons for this IXC access structure. On IXC interconnected traffic, the LECs do not bill the end user customer and do not receive revenue; the IXCs bill the end user. That is why IXCs pay for the transport of traffic by LECs in both directions. This payment structure follows the historical reason for access charges; the carrier that bills the end user customer compensates the carrier that incurs the cost. This also has been the situation with LEC-to-cellular interconnection. The LECs have agreed to forego normal end user charges on originating landline calls to cellular end user customers in exchange for additional payment from cellular providers. Cellular providers are compensated by their end users. In fact, the cellular providers have already distorted the process by charging their end users for both receiving and

[25] AirTouch, p. 17, fn. 18.

sending calls.[26] Nonetheless, the cellular providers are not satisfied. They want to be freed of charges from the LECs.

If Bill and Keep were adopted in this proceeding, then in the pending access reform rulemaking the Commission would be in the position of trying to correct the resulting distortions. CMRS providers and IXC arbitragers would have no incentive to assist in the access reform rulemaking since the longer it took the Commission to correct the distortions, the longer the group's unfair competitive advantage would last. Both competition and universal service would suffer if access reform is delayed.

The Commission should reject this proposed fragmented approach which would sidestep the Commission's past and pending proceedings and would change the rules in order to help one group of competitors. Changes in the mechanisms for establishing rates should not be made in a vacuum or on a piecemeal basis. The Commission painstakingly has established its access charge plan in an attempt to balance the interests of all parties in order to benefit the public interest. The plan has numerous flaws and must be reformed. The adoption, however, of a fragmented Bill and Keep approach that does not consider the overall plan and all customers would destroy the existing balance by benefiting the private financial interests of a few at the expense of the broader interests of the public. The public interest requires that significant changes

[26] On a call from one of its cellular customers to another of its cellular customers, the cellular provider double bills by charging both cellular end users, even though the call receiver causes no costs. This contrasts sharply with a wireline to wireline call in the same network -- only the call originator is billed in recognition that the call receiver causes no costs.

to the access charge plan be made only after a comprehensive review of the plan and its goals.

II. COMPENSATION FOR INTERCONNECTED TRAFFIC BETWEEN LECS' AND CMRS PROVIDERS' NETWORKS

A. COMPENSATION ARRANGEMENTS MUST ALLOW THE OPPORTUNITY TO RECOVER COSTS

1. EXISTING ARRANGEMENTS ARE REASONABLE AND ALLOW COST RECOVERY

The Negotiation Process Has Produced Good Results

In response to the Commission's NPRM in this proceeding, CMRS providers have filed comments stating that the existing process for interconnection arrangements between CMRS providers and LECs is unfair. They assert that the process needs to be quickly replaced.

The parties making these assertions include cellular carriers who in the recent past said that the existing process was working well. For instance, now CTIA states that the LECs' "market power is a source of unequal bargaining power in interconnection negotiations" which "[w]ithout Commission intervention...may result in an unreasonable and/or discriminatory interconnection rate [with] no basis in cost."[27] In the Equal Access and Interconnection docket, however, CTIA supported the current LEC-to-CMRS interconnection arrangements and explained why CMRS providers have

[27] CTIA, pp. 9-10 (emphasis added).

sufficient bargaining power to achieve fair and nondiscriminatory arrangements. CTIA stated:

> Most LECs and cellular carriers are satisfied with the current negotiation process for interconnection with the public switched network, and find that the process generally produces fair and nondiscriminatory interconnection arrangements. This is due, in large part, to the fact that the CMRS market comprises sophisticated buyers of access services with sufficient information and expertise to negotiate equitable interconnection arrangements. And because of the requirements of Section 202 of the Communications Act barring LEC provision of discriminatory service arrangements among its customers, less sophisticated buyers can take full advantage of pre-existing interconnection arrangements. There is no reason to believe that this system of good faith negotiations cannot work equally well for other sophisticated purchasers of LEC interconnection services.[28]
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> While it is true that the period following the licensing of cellular service was marked by difficulties in the negotiation process, these problems have largely abated. After nearly a decade of experience with the negotiation process, the customs and procedures pertaining to cellular interconnection are now well established and successful. Cellular companies and LECs have negotiated and implemented satisfactory interconnection agreements.[29]

This same type of transformation has occurred with AirTouch. In its current comments, AirTouch states that "the LECs with which AirTouch interconnects have refused to negotiate on the basis of Mutual Compensation and have forced AirTouch to accept interconnection rates far above cost, often based on end-user (MTS) rates,

[28] Comments of CTIA, p. 18, September 12, 1994, CC Docket No. 94-54.
[29] Id., at pp. 19-20.

rather than a co-carrier model."[30] Just last year, however, AirTouch described how the LECs have flowed through interconnection cost decreases to CMRS providers in LEC-to-CMRS interconnection agreements and defended the current process as likely to lead to Mutual Compensation arrangements.[31]

Based partly on the earlier positive comments by CTIA, AirTouch, and others, in Docket 94-54, the Commission found that the cellular policies had worked well and extended them to other forms of CMRS.[32] In addition, in 1995 the Commission considered the lack of pending cellular interconnection complaints as evidence that the current interconnection policies had prevented anticompetitive practices.[33] Neither CTIA, AirTouch, nor any other party in this proceeding has introduced evidence that the interconnection process has changed since the time of these earlier comments and Commission decisions in ways that suddenly make the process unfair.

Rapid Development Of The CMRS Market Has Occurred With Existing Interconnection Agreements

CTIA states that the "full realization of the potential of CMRS...depends upon the FCC's determined effort to adopt its reciprocal termination [i.e., Bill and Keep] proposals quickly."[34] AirTouch states, "Overly high interconnection prices, however, may stifle

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[30] AirTouch, p. 5.
[31] Comments of AirTouch, pp. 7-8, June 14, 1995, CC Docket No. 94-54.
[32] See, CMRS Second Report, 9 FCC Rcd, pp. 1494-97.
[33] Eligibility for the Specialized Mobile Radio Services, GN Docket 94-90, Report and Order, 10 FCC Rcd 6280, 6293 (1995).
[34] CTIA, p. 3.

development of the CMRS industry and wireless local loop competition."[35] But CTIA, AirTouch, and other parties in this proceeding do not introduce any evidence that the "full realization of CMRS" is being held back by LEC-to-CMRS interconnection agreements.[36]

In fact, cellular carriers are by far the fastest growing segment of the voice telecommunications industry. In its most recent Annual Report on CMRS Competition, the Commission found that since 1984 "[e]ach year, cellular subscriber growth has approached or exceeded fifty percent -- an amazing record of sustained growth."[37] By contrast, LEC subscriber growth from 1988 to 1994 averaged 3.5%.[38]

Cellular traffic now contributes more than 2 billion minutes per year onto just Pacific Bell's network. This is more traffic than our Custom 800, regular 800, 900, and 976 services combined. In fact, the number of CMRS messages that we carry (approximately 1.2 billion during 1995) is approximately 25% of the number of toll

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[35] AirTouch, p. 15.

[36] AirTouch (p. 59) also states, "The financial results of cellular carriers also reflect years of interconnection overcharges at the hands of LECs." Interconnection charges are a fraction of CMRS revenues. Further a review of the 1994 Annual report for AirTouch shows the domestic cellular operations had an operating income of $293 million and domestic paging operations had an operating income of $30 million, while consolidated results of all operations had an operating income of $73 million. The difference of $250 million in negative operating income was not a result of interconnection. Further the return on sales ratio (an indication of revenues to costs) of AirTouch domestic CMRS operations in 1994 was 24.9%. By comparison, the Pacific Telesis Group normalized return on sales ratio is only 12.7%.

[37] Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993: Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, FCC 95-317, First Report, 10 FCC Rcd 8844, para. 13 (released August 15, 1995) (footnote omitted) ("Annual Report on CMRS Competition").

[38] FCC, Statistics of Communications Common Carriers, "Total Presubscribed lines for all Local Exchange Companies..." (1988-1995 ed.).

messages that we carry (approximately 4.8 billion during 1995). So these carriers are neither small nor stifled. They are not being held back by our interconnection rates and do not need a handicap in the form of Bill and Keep.

Moreover, CTIA and AirTouch vastly exaggerate the importance of interconnection charges to the continued growth of CMRS and to increased competition between CMRS providers and LECs. CTIA states that termination rates are "especially crucial to the further development of competition"[39] and that termination costs will continue to be a substantial part of CMRS providers' cost structures.[40] CTIA continues by saying that "high interconnection prices could relegate CMRS to use as a complementary service to LEC wireline service."[41] Similarly, AirTouch includes the "high costs of interconnection" as a reason cellular service developed as a "premium service, complementary to land-line service."[42]

Again, these parties do not introduce any evidence to support these assertions. In fact, Pacific Bell's most popular Type 2A access tandem interconnection, priced at 2.48 cents per minute, represents approximately 5% to 10% of the average cellular providers rate of between approximately 25 cents and 45 cents per minute. By contrast, interconnection charges represent a much higher percentage of IXC prices. Because of different cost characteristics that we discuss below, Pacific Bell charges IXCs approximately 2.0 cents per minute. Unlike the 5-10% of the retail price for CMRS providers, this interconnection charge to IXCs represents 20% of Sprint's advertised

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[39] CTIA, p. 3.
[40] Id. at 32.
[41] Id.
[42] AirTouch, p. 6.

rate of 10 cents per minute and 40% of its advertised rate of 5 cents per minute. Either CTIA is wrong when it says that interconnection rates are a substantial part of CMRS providers' cost structures, or they price their service at many times its cost, or both.[43]

Dropping our termination rate to zero under Bill and Keep would not have a significant effect on CMRS providers' ability to compete with wireline service. The Commission has pointed out:

> It therefore appears that wireless telephone service prices will have to fall well over fifty percent (or that wireline prices will have to rise to meet them) for wireless service to be fully price-competitive with traditional wireline telephone service.[44]

Therefore, CMRS providers' pleas for the removal of interconnection charges so that they can fully compete with LECs are not only unfair but absurd. The Commission should put more weight on the CMRS providers' earlier comments, made before they were blinded by the possibility that they may obtain a "free lunch". Moreover, the Commission should consider their success in the marketplace as evidence that existing arrangements are reasonable.

We Have Acted Reasonably Concerning Mutual Compensation

The CMRS providers generally do not directly claim that the existing LEC-to-CMRS interconnection agreements violate the Commission's requirement of

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[43] See Comments By Pacific Bell, Pacific Bell Mobile Services, and Nevada Bell, Exhibit B, Statement of Professor Jerry A. Hausman, para. 59-61.

[44] Annual Report on CMRS Competition, 8869-70, para. 75 (emphasis added).

Mutual Compensation for interstate CMRS. Time Warner, however, states that the "implication [of existing agreements] is that incumbent LECs are failing to comply with the FCC's requirement for Mutual Compensation...."[45] Similarly, AT&T complains of the "one-sided compensation terms currently imposed by the LECs" in which the LECs do not compensate the CMRS providers.[46] Moreover, AirTouch states that it has been denied Mutual Compensation.[47]

No CMRS provider has informed us that any of its traffic involved in our interconnection agreements is interstate. Thus, the only CMRS traffic identified to us as interstate is traffic involving an IXC. The IXC compensates us for our role in the interconnection of that traffic; we neither charge nor compensate the CMRS provider. Accordingly, there is no failure on our part to comply with the Commission's interstate requirement.

The Commission has left LEC-to-CMRS interconnection arrangements up to good faith negotiations under the auspices of the states. In its comments in this proceeding, the California PUC explains its past policy against requiring Mutual Compensation, as follows:

> In a 1990 Decision, the CPUC rejected mutual compensation because this would lead to a calling party pays system which in turn would lead to an increase in cost of basic telephone service for the provision of discretionary cellular service. At the time, the CPUC was concerned that wireline customers would incur airtime charges with no notice.[48]

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[45] Time Warner, p. 7.
[46] AT&T, pp. 5 and 8.
[47] AirTouch, p. 33.
[48] See California PUC, p. 6.

During negotiation sessions from March of 1993 thru December of 1994, the cellular carriers asked for Mutual Compensation, and Pacific Bell requested a reasonable proposal. The cellular carriers submitted a proposal that was rejected by us at that time as unreasonable because the proposal was based entirely on our costs, rather than mutual costs, and did not address the elimination of LM-2 arrangements. Since that time, the parties agreed to defer Mutual Compensation negotiations, and no bonafide proposal has been presented since. We expect, however, to begin negotiating Mutual Compensation arrangements in April of this year.

One reason we requested a Mutual Compensation proposal was that the LM-2 billing arrangement both depressed our revenues and increased the costs to the cellular industry. LM-2 is the arrangement which the cellular industry requested whereby LECs would only bill local rates to their landline customers, instead of higher toll rates, in exchange for the cellular carriers voluntarily paying for some of the costs. The cellular industry believed that this arrangement would stimulate landline customers to call cellular phones. However, cellular customers had a habit of turning off their cellular phones so as not to receive calls, presumably due at least in part to the high usage charges imposed by the cellular companies, which continues today. This refusal of cellular customers to receive calls resulted in extremely low call completion rates which increased per minute of use costs.

In spite of our request for a reasonable Mutual Compensation proposal, AirTouch now objects that we do not provide Mutual Compensation to it, although we do to some other carriers.[49] Mutual Compensation arrangements started between LECs when LECs exited the settlements pools. The theory behind Mutual Compensation was that the carrier terminating the call incurred costs and received no revenue from its end user customers, while the originating carrier received revenue from its end user customers and experienced lower costs because it did not have to terminate the call. A fundamental precept was that the carrier that billed the end user customer would compensate the carrier that incurred costs but received no revenue. This arrangement also existed within the IXC industry, as the IXC billed the end user, received revenue, and compensated the LEC for costs on the LEC network, while the LEC did not bill any end user.

Contrary to both the LEC-to-LEC situation and the LEC-to-IXC situation, the cellular carriers in 1993 suggested that the LEC pay for terminating a call on the cellular network at the same time that the cellular carrier was collecting revenue from its end user customer -- double collecting. Perhaps the obvious over-reaching of such an arrangement explains why the cellular carriers did not submit a Mutual Compensation proposal that included their own costs of termination or that addressed the LM-2 arrangement. Now the cellular and other wireless carriers want something even more favorable. They want to continue to bill their customers for both receiving and making telephone calls but, via Bill and Keep, not provide any compensation to the LECs for the costs that the wireless carriers cause on the LECs' networks.

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[49] AirTouch, p. 33.

PCS Interconnection Arrangements Are Reasonable And Nondiscriminatory

Cox attempts to justify its support for Bill and Keep for PCS by asserting: "As the FCC's own ex parte records reflect, Pacific Bell's idea of a negotiation is to present Pacific Bell's interconnection agreement with its affiliate, Pacific Bell Mobile Services, as the 'deal' Pacific Bell is willing to strike with Cox. There is no reciprocal compensation reflected in the interconnection agreement, nor do the rates Pacific Bell intends to charge reflect anything approaching its incremental costs."[50]

Actually, the ex parte letter cited by Cox simply states, "Please let the record in this proceeding [GEN Docket No. 90-314] show that on November 29, 1995, we faxed to Cox Communications the entire interconnection agreement between Pacific Bell and Pacific Bell Mobile Services."[51] We sent this to Cox in order to assure it that we were not providing our own affiliate anything that we were not willing to provide Cox. Had we not provided this assurance, Cox may well have complained. Sending Cox the agreement was not a replacement for negotiations.

There is no Mutual Compensation provision in our agreement with Pacific Bell Mobile Services or in our other existing arrangements for the reasons discussed in the prior section of these Reply Comments. As we explained in our Comments, however, we expect to begin negotiating Mutual Compensation arrangements as replacements for existing arrangements in April of this year. The emergence of Cox and other PCS

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[50] Cox, p. 16. We discuss the incremental cost issue in our Comments and below.

[51] Ex Parte Letter, GEN Docket No. 90-314, filed by Pacific Telesis on February 5, 1996 (confirming disclosure of Pacific Bell - Pacific Bell Mobile Services interconnection agreement to Cox California PCS, Inc.).

providers does not create any urgent need for change. We offer PCS providers the same arrangements that have been negotiated with cellular providers, and PCS providers have been negotiating interconnection contracts with us. Most are for one year terms only and will expire at the same time that we expect to be replacing our existing cellular contracts with contracts negotiated on the basis of Mutual Compensation. In any event, once we have made the needed changes, with the agreement of the parties, these current contracts with PCS providers can be revised to include Mutual Compensation arrangements, as can all our existing contracts.

Interconnection Charges Are Reasonable

AirTouch criticizes the manner in which Pacific Bell calculated its charges in a proposed tariff that we filed at the CPUC. In compliance with the CPUC's requirements, we subsequently refiled the proposed tariff on September 1, 1994 in the CPUC's Open Access Proceeding,[52] where the CPUC has not yet addressed it. As AirTouch points out, pending resolution of the tariff, AirTouch signed a new contract with us at lower rates. Moreover, costs have continued to change, and in new agreements we expect to achieve Mutual Compensation. Therefore, the precise calculations that AirTouch criticizes are not relevant to existing or future agreements. Nonetheless, AirTouch's flawed analysis of our proposed tariff rates shows that the Commission should reject its arguments about our pricing of interconnection.

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[52] Rulemaking on the Commission's Own Motion to Govern Open Access to Bottleneck Services and Establish a Framework for Network Architecture Development of Dominant Carrier Networks, R.93-04-003